

ADMINISTRATIVE POLICY



STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

TITLE: EMPLOYEE ACCESS TO PERSONNEL FILE NUMBER: ES.C.7

CHAPTER: RCW 49.12.240, .250, .260 ISSUED: 1/2/2002

ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

All employees subject to the protections of the Industrial Welfare Act (RCW 49.12) have the right to inspect their personnel file. RCW 49.12.240 requires an employer, at least annually, to allow an employee to inspect his or her personnel file upon request. The department interprets this to include former employees, who retain the right to inspect their personnel files after termination.

The employer must make the personnel file available “locally” within a reasonable period of time after the employee’s request. RCW 49.12.250(1).

- The term “locally” means at the location where the requesting employee works or at a mutually convenient location agreed upon between employer and employee.
- “Within a reasonable period” generally means within ten business days of the employee’s request unless good cause is shown that more time is needed.
- “Personnel file” includes records that are regularly maintained by the employer as part of the business records or those that are subject to reference for information given to persons outside the company.

The term “personnel files” is further interpreted to generally include, but is not limited to, records of employment and such other information required for business or legal purposes; documents containing employees’ qualifications; verification of training completed; signed job descriptions; supervisor’s files; all performance

evaluations, letters of commendation and letters of reprimand; salary, sick and vacation leave hours; and summaries of benefits and other similar information.

Employees may request an employer review of all information contained in the personnel file on an annual basis. An employee has the right to request annually that the employer review any information in the personnel file that may be referenced when the employer provides information to persons outside the company to determine if there is any “irrelevant or erroneous” information in the file. See RCW 49.12.250(2).

“Irrelevant or erroneous” information may be removed by the employer. It is up to the employer to determine whether the personnel file contains “erroneous or irrelevant” information and, if the employer makes such a determination, the information must be removed from the file. If the employee disagrees with the employer’s determination of which information is subject to removal as “erroneous or irrelevant,” the employee may place a statement in the file documenting his or her disagreement with the employer’s assessment.

Former employees retain the right to rebut or correct the employer’s determination of erroneous or disputed information for up to two years from the termination of the employment relationship. See RCW 49.12.250 (3).

The employer may remove information more frequently. Nothing in RCW 49.12.050(2) prevents the employer from removing information more frequently.

Limitations. The statute does not apply to requests to inspect or remove records relating to investigation of a possible criminal act or to information or records compiled in preparation for an impending lawsuit (unless that information would be available to another party under the rules of pretrial discovery for causes pending in superior court).

The department may take complaints from employees who have been denied access to their personnel file. The department may take complaints from workers and determine whether the worker is entitled to the rights set out in RCW 49.12.240-260. If so, the department will contact the employer to request that the employer comply by allowing the employee to inspect the file.

The department takes no enforcement position pertaining to disputes over the contents of a personnel file.